



Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

June 21, 2021

Financial Services Regulatory Authority
5160 Yonge St., 17th Floor
North York
ON M2N 6L9

Re: PROPOSED RULE [2020 – 001] - *FINANCIAL PROFESSIONALS TITLE PROTECTION*

The Mutual Fund Dealers Association of Canada (MFDA) thanks the Financial Services Regulatory Authority of Ontario (“FSRA”) for this opportunity to provide our comments on the revised Proposed Rule 2020-001 Financial Professionals Title Protection under the *Financial Professionals Title Protection Act, 2019* (Proposed Rule).

The MFDA supports improving and enhancing proficiency standards within the financial services industry and providing transparency to consumers regarding the expertise and knowledge of individuals providing financial planning and advisory services.

We appreciate the consultation FSRA has engaged in to date with stakeholders, including the MFDA, in developing the Financial Planner (FP)/ Financial Advisor (FA) title protection framework. We are committed to working with FSRA and other stakeholders to ensure that the implementation of the framework mitigates consumer confusion and enhances consumer confidence. Our comments in submissions and consultations to date have focused on ensuring that, to the extent that an exemption is not provided to Approved Persons of self-regulatory organization (SRO) Members, the potential for duplication, overlap of regulatory efforts, regulatory burden and consumer confusion is avoided. We would like to take this opportunity to restate more specifically our views in this area.

Background

The MFDA is the national SRO that oversees mutual fund dealers in Canada. MFDA Members are registered by provincial and territorial securities regulatory authorities. MFDA Members administer approximately \$730 billion in assets and employ 80,000 Approved Persons in over 20,000 branch locations across Canada. MFDA Members service 9.1 million households, representing 56% of Canada’s households. Of these MFDA serviced households, 81% are mass market clients (with less than \$100,000 in financial wealth) and they account for 26% of the financial wealth managed by MFDA Members.

MFDA Regulatory Regime and Oversight

The MFDA is responsible for regulating the operations, standards of practice and business conduct of its Members and their Approved Persons with a view to enhancing investor protection and strengthening public confidence in the Canadian mutual fund industry. MFDA Members and

Approved Persons are required to adhere to comprehensive requirements with respect to: business conduct, Know-Your-Product (“KYP”), Know-Your-Client (“KYC”), suitability, marketing and advertising, conflict of interest and outside activities, complaint handling and reporting. MFDA Members are subject to extensive sales and financial compliance reviews, which cover every aspect of the Member’s operations. When it becomes apparent, through compliance reviews or investor complaints that standards have not been met, Members and their Approved Persons may be subject to discipline through enforcement proceedings, which may result in fines, suspensions or permanent prohibitions.

MFDA Approved Persons are required under MFDA Rules to satisfy any applicable proficiency or registration requirements set out in securities legislation and established by the securities regulatory authority having jurisdiction. The entry level proficiency requirements for individuals seeking registration as mutual fund dealing representatives are established by the provincial securities regulators under National Instrument 31-103 – *Registrant Requirements, Exemptions and Ongoing Registrant Obligations*. The MFDA has established continuing education requirements for MFDA Approved Persons which will become effective December 1, 2021.

MFDA Members and their Approved Persons are also required to participate in the Ombudsman for Banking Services and Investments (OBSI) and an investor protection plan (MFDA Investor Protection Corporation).

Oversight by FSRA as CB and OSC/CSA as a SRO

The MFDA is a not-for-profit organization with a public interest mandate and, as a SRO, is subject to the direct oversight of the provincial securities regulators pursuant to Recognition Orders. Under the Recognition Orders, each of the recognizing provincial securities regulators has imposed terms and conditions on the recognition of the MFDA. Oversight by the provincial securities regulators includes reviewing information filed by the MFDA under its Recognition Orders, reviewing and approving new and amended regulatory instruments, and performing periodic reviews of the MFDA’s regulatory functions as well as its overall operations.

Given the comprehensive and robust oversight of the MFDA by the provincial securities regulators, additional oversight by FSRA of the MFDA as a credentialing body may result in duplication and unnecessary burden. Accordingly, MFDA recommends that FSRA dialogue with the Ontario Securities Commission (and the other recognizing provincial securities regulators) to rely on their oversight efforts.

Potential for Duplication and Overlap

As a recognized SRO and comprehensive conduct regulator with an investor protection mandate, the MFDA has an established regulatory framework with robust policy, compliance, and enforcement functions. One of FSRA’s stated key principles in designing the title protection framework is to achieve regulatory effectiveness and efficiency. The Proposed Rule would require credentialing bodies to have a code of conduct, as well as an appropriate complaints and disciplinary process. While we appreciate that this is intended to compliment existing regulatory frameworks, in light of the fact that many MFDA Approved Persons hold credentials from other non-SRO credentialing bodies, there is the potential for confusion as to whose standards apply with respect to which activities and which entities would have responsibility for enforcement.

In implementing the title protection framework, a clear distinction must be made between the broader responsibility and active regulatory role of the MFDA as a recognized SRO and comprehensive business conduct regulator versus the non regulatory role of non-SRO credentialing bodies in overseeing use of the credential. Where an MFDA Approved Person also holds a credential from a non-SRO credentialing body and there are alleged violations of MFDA Rules in respect of an individual title holder, MFDA regulatory processes (as approved and overseen by the provincial securities regulators) must take precedence to ensure that clients are not negatively impacted. For example, when complaints involving MFDA Approved Persons are directed to non-SRO credentialing bodies for investigation in the first instance without notification to the MFDA Member/MFDA, clients may not be aware of other options available for handling their complaints and avenues for redress. In light of the more robust complaint handling regime of the MFDA as a recognized SRO in contrast to those of non-SRO credentialing bodies, and the availability of an ombudservice and investor protection plan coverage, consumers must clearly understand and be directed to the SRO responsible for handling their complaint and SRO complaint handling requirements must take priority.

Proposed Fee Model

We are concerned that the proposed FA/FP fee approach would not be appropriate for the MFDA. Given that the MFDA is already subject to robust oversight as a recognized SRO by the provincial securities regulators and MFDA Members are already subject to SRO fees to cover the cost of comprehensive regulation and oversight by the MFDA, we are unclear as to what the additional FSRA fees on top of the existing MFDA fees would be for. We seek to obtain more detail and clarity on the proposed FSRA fee model through the upcoming public consultation.

Consolidated Public Registry

The MFDA supports the establishment of a consolidated, public registry to allow consumers to verify whether individuals are qualified to use the FP and FA titles in Ontario. The value of such a registry would be greatly enhanced if it was maintained on a national basis. We encourage FSRA to work with other financial service regulators across Canada to develop a national registry that would be relevant to all Canadian consumers. Both the CSA and the Canadian Council of Insurance Regulators maintain websites that provide access to information on registration, licensing and disciplinary activity. It would be useful if both registries were combined and included in FSRA's proposed registry of individuals using the FA and FP titles.

We look forward to continuing to work with FSRA on this important initiative.

Yours truly,



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